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August 7, 2006

William A. Bonnet
Vice President
Government & Community Affairs

The Honorable Chairman and Members of
the Hawaii Public Utilities Commission
Kekuanaoa Building
465 South King Street
Honolulu, Hawaii 96813

Dear Commissioners:

Subject: Docket No. 04-0113
Amended and Restated Stipulation

FILED
2006 AUG -7 P 4:04
PUBLIC UTILITIES
COMMISSION

Enclosed for the Commission's review and approval is an Amended and Restated Stipulation signed by Hawaiian Electric Company, Inc. ("HECO"), the Division of Consumer Advocacy ("Consumer Advocate") and the Department of Defense ("DOD") (collectively, "the Parties"). On June 30, 2006, HECO and the Consumer Advocate filed a Stipulation concerning Order No. 22537, issued by the Commission on June 19, 2006. Among other things, it explained that the DOD was unavailable to review and sign the Stipulation. The enclosed Amended and Restated Stipulation is in substantially the same form as the June 30, 2006 Stipulation and has been executed by the DOD, HECO and the Consumer Advocate.

In addition, HECO requests that the requirement for the Parties to file a stipulated procedural schedule within forty-five days of the date of Order No. 22537 be extended to three weeks from the date that the Commission rules on the Amended and Restated Stipulation.¹

¹ The current due date for filing the stipulated procedural schedule is August 7, 2006. Forty-five days from June 19 is August 3. Since the Commission served Order No. 22537 by mail, two days are added as specified by §6-61-21(e) of the Hawaii Administrative Rules. Since August 5 is a Saturday, the due date is the next working day, August 7, 2006.

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Should the Commission approve the Amended and Restated Stipulation, HECO requests that the Commission terminate this requirement. The Consumer Advocate and the DOD do not object to this request.

Sincerely,

A handwritten signature in black ink, appearing to read "William Q. Bennett". The signature is fluid and cursive, with a long horizontal line extending from the end.

Attachment

cc: Division of Consumer Advocacy (w/enc.)
Department of Defense (w/enc.)



proceeding, (2) identified certain issues that had not been settled but that the Parties had agreed to address only in post-hearing briefs, and (3) identified the remaining issue that would need to be heard at the evidentiary hearing for this proceeding;

WHEREAS, in the Settlement, the Parties agreed that the rate changes specifically set forth in the Settlement result in just and reasonable rates for HECO's regulated electric operations and that the Parties would support and defend the Settlement before any court or regulatory agency;

WHEREAS, the Parties agreed that if the Commission failed to issue an order adopting all material terms of the Settlement, any or all of the Parties may withdraw from the Settlement and such Party or Parties may pursue their respective positions on HECO's application without prejudice;

WHEREAS, on September 15 and 16, 2005, the Commission held evidentiary hearings for Docket No. 04-0113;

WHEREAS, on September 19, 2005, HECO and the Consumer Advocate presented oral argument regarding HECO's request for interim rate relief at a hearing held by the Commission;

WHEREAS, on September 27, 2005, the Commission issued Interim Decision and Order No. 22050 ("Interim D&O"), which allowed HECO to increase its rates on an interim basis to such levels as will produce, in the aggregate, \$53,288,000 in additional revenues for the 2005 test year, effective from the date of the Interim D&O until the

Commission issued a final decision in this docket;

WHEREAS, HECO filed tariff changes, effective September 28, 2005, to implement the interim rate increase;

WHEREAS, on June 2, 2006, the Governor of Hawaii signed Senate Bill 3185, S.D. 23, H.D. 2, C.D. 1 into law as Act 162, which among other things, amends Hawaii Revised Statutes § 269-16 to provide that:

(g) Any automatic fuel rate adjustment clause requested by a public utility in an application filed with the commission shall be designed, as determined in the commission's discretion, to:

- (1) Fairly share the risk of fuel cost changes between the public utility and its customers;
- (2) Provide the public utility with sufficient incentive to reasonably manage or lower its fuel costs and encourage greater use of renewable energy;
- (3) Allow the public utility to mitigate the risk of sudden or frequent fuel cost changes that cannot otherwise reasonably be mitigated through other commercially available means, such as through fuel hedging contracts;
- (4) Preserve, to the extent reasonably possible, the public utility's financial integrity; and
- (5) Minimize, to the extent reasonably possible, the public utility's need to apply for frequent applications for general rate increases to account for the changes to its fuel costs.

WHEREAS, on June 19, 2006, the Commission issued Order No. 22537 which directed the Parties to this proceeding to meet informally to determine a procedural schedule to address the issues relating to HECO's energy cost adjustment clause

("ECAC") that are raised by the signing of Act 162 into law;

WHEREAS, HECO's application was filed over 18 months prior to the effective date of Act 162, and Order No. 22537 was filed over 8 months following the closure of the evidentiary record in this proceeding subsequent to the evidentiary hearings held in September 2005;

WHEREAS, the record in this proceeding was not designed explicitly to address the specific factors identified in Act 162;

WHEREAS, HECO's testimony regarding the need to continue the ECAC, which was submitted to respond to the Commission's orders approving amendments to HECO's fuel oil contracts in Docket Nos. 04-0218 and 04-02, was summarized in its Reply Brief filed December 19, 2005;

WHEREAS, in this proceeding, all of the parties agreed that the ECAC should be continued; with respect to continuation of the ECAC, the Consumer Advocate stated that: "Fuel price volatility in international fuel markets and HECO's dependence upon such markets makes ECAC continuation important to the Company and its ability to timely recover fluctuating costs thereby minimizing earnings volatility and the risk of reduced access to capital markets on reasonable terms" (The DOD did not explicitly state a position on the continuation of the ECAC, but based its derivation of ECA Revenues on the Consumer Advocate's estimates);

WHEREAS, HECO's testimonies showed that:

and (3) providing a more timely recovery of fuel and purchased energy costs. Elimination of the ECAC would have a major effect on HECO's business risk and, therefore, increase its requisite cost of equity. As a result of the significant financial risk exposure related to fluctuations in the price of fuel, HECO might require almost constant ratemaking proceedings before the Commission to maintain a reasonable rate of return. The ECAC benefits customers by (1) reducing the Company's financial risk and lowering the cost of capital, with the resulting savings being passed on to customers through lower base rates in rate proceedings, and (2) passing through to customers the savings incurred when fuel prices fall below the prices embedded in base rates (to the same extent that they incur additional costs when fuel prices are above the embedded fuel prices).

WHEREAS, the Commission posed a question for the hearing on September 16, 2005 as to appropriate methods for reporting and monitoring ECAC results to assure that the Company's fuel acquisitions are optimal. In response, HECO pointed out that the ECAC contains an efficiency factor, which is a measure of how efficiently HECO expects to convert the fuel burned in its generating units into a kwh of sales during the test year. If the Company converts fuel into kwh more efficiently than this factor, it will get to keep the savings. But if the Company converts fuel into kwh less efficiently than this factor it will not be able to recover the additional cost from customers. In effect, the efficiency factor acts as a standard which the Company must meet to avoid under-recovery of its fuel expense.

examine the continued use of the energy cost adjustment clauses to recover the various costs incurred pursuant to the

WHEREAS, the Commission also posed a question for the September 16, 2005 hearing as to whether the utility has a diminished incentive to reduce volatility through diversifying its fuel sources if the ECAC allows the utility to recover all fuel costs. In response, HECO noted that the purpose of the ECAC is to minimize fuel price risk to the Company and by extension to ratepayers. Eliminating or even making significant adjustments to the ECAC would create major financial problems for the Company and would have dramatic impacts on its current financial standing. In addition, the record does not indicate that eliminating or changing the ECAC is necessary at this time to encourage renewables:

(1) New renewables projects have been and are being developed, especially in the area of wind.

(2) As the Consumer Advocate indicated in its Statements of Position filed on November 8, 2004 in Docket Nos. 04-0128 and 04-0129, HECO's "use of the ECAC to address the changing price of fuel does not appear to have diminished its effort in research and utilization of renewable energy."

(3) The current ECAC allows HECO, HELCO and MECO (collectively referred to as the "Companies") to bring on new as-available renewable purchase power agreements without rate proceedings, including those with prices that are de-linked from the price of oil. Thus, a major potential disincentive to the Companies has been removed, because they can immediately pass on the costs of renewable projects. Firm renewable

projects can be added without a rate case due to the availability of the firm capacity surcharge for nonfossil fuel producers, plus the ECAC.

WHEREAS, the record developed in this proceeding does not fully address the utility's ability to mitigate the risk of sudden or frequent fuel cost changes that cannot otherwise reasonably be mitigated through other commercially available means, such as through fuel hedging contracts. It could take significant additional time to develop this type of information, since hedging instruments for low sulfur residual fuel oil (the primary fuel burned by HECO in its power plants) are not readily available. This type of information could be developed for HECO's next rate proceeding, or in other Commission proceedings (such as its Renewable Portfolio Standard workshops, which would allow for input from other interested persons or in HELCO's pending rate application);

WHEREAS, HELCO and the Consumer Advocate intend to address the factors identified in Act 162 in their evidentiary submissions in HELCO's pending general rate case, Docket No. 05-0315. In addition, the Commission can reserve the right to open a proceeding regarding HECO's ECAC, if a new general rate proceeding is not commenced by HECO in the near term. As indicated in HECO's testimony in this docket (HECO RT-1, page 36), "it is not unlikely that HECO's next rate case would be filed within three years from the conclusion of this proceeding;"

WHEREAS, the Consumer Advocate and HECO filed a stipulation concerning

issues relating to HECO's ECAC that are raised by Act 162 on June 30, 2006 ("June 2006 Stipulation"), which was in substantially the same form as this Amended and Restated Stipulation;

WHEREAS, the Consumer Advocate and HECO discussed the concept of the June 2006 Stipulation with the DOD and attempted to obtain the DOD's agreement with the stipulation, but the DOD was unavailable to review and sign the stipulation at that time; and

WHEREAS, subsequent to the filing of the June 2006 Stipulation, the DOD reviewed the June 2006 Stipulation, and is in agreement with the June 2006 Stipulation;

NOW, THEREFORE, it is hereby stipulated and agreed by HECO, the Consumer Advocate, and the DOD as follows:

1. This Amended and Restated Stipulation will replace the June 2006 Stipulation in its entirety.
2. Docket No. 04-0113 should not be held open to review the ECAC issues specified in Act 162, since HECO's Application was filed and the record of this proceeding was completed before Act 162 was signed into law, and the parties signed the Settlement in Docket No. 04-0113 to allow the existing ECAC to be continued.
3. The Commission should issue a final decision and order in Docket No. 04-0113 as soon as practicable, since reviewing the ECAC now may jeopardize the Settlement and further delay the issuance of a final decision and order in Docket

No. 04-0113.

4. It would be more efficient to explicitly address the Act 162 factors in the context of HECO's ECAC in HECO's next general rate case, given (a) the need to develop information on matters such as hedging, (b) the opportunity to address the factors in the context of HELCO's ECAC in HELCO's pending general rate case (Docket No. 05-0315), and (c) the status of the record development in this rate proceeding. If changes in the ECAC were proposed in this proceeding, the Parties could take the position that other elements of the rate case would have to be revisited, such as the fair rate of return on common equity and the estimated prices of fuel oil, which could result in one or more Parties withdrawing from the Settlement filed September 16, 2005, possibly giving rise to the Parties' need to re-open the record and litigate the previously settled matter, which would substantially delay the issuance of a final decision in this rate case.

5. If HECO's next rate case is not filed within a time frame acceptable to the Commission, the Commission can open an investigation to have HECO's existing ECAC reviewed.

6. This Amended and Restated Stipulation shall apply solely to this proceeding.

7. The agreements in this Amended and Restated Stipulation are subject to Commission approval. If the Commission does not issue an order adopting the Amended and Restated Stipulation in its entirety, HECO, the Consumer Advocate, and/or the DOD

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Amended and Restated Stipulation upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

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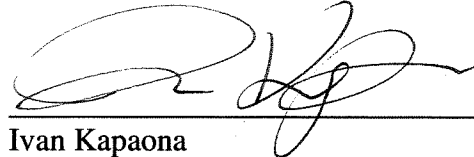
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Ivan Kapaona

DATED: AUG 07 2006